IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION (BAIL) NO.16/2002

Shri Ruffus Leo Manuel,
son of Joseph Manuel, 31 years
of age, permanent resident of
Kalaniketan, Watts' Road,
Thiruvanathapuram, Kerala,
presently lodged at
Judicial Lock-up,
Mapusa, Goa. .... Applicant.

V/s.

State, through the Officer-in-
charge, Anti-Narcotic Cell,
Goa Police, Panaji, Goa. ..... Respondent.

Mr. A.V. Nigalye, Advocate for applicant.

Mr. A.P. Lawande, Public Prosecutor for the respondent/State.

CORAM : A.S. AGUIAR, J.

DATE : FEBRUARY 8, 2002.

ORAL ORDER :

Heard learned Advocate for the applicant and the Public Prosecutor. This is an application for bail under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985. The alternate prayer of the applicant is to refer the substance to the Chemical Analyser for determining the exact weight and percentage of charas. This is a border line case where the possession of the drugs for commercial use above 1 kilo gram is punishable. The substance seized from the accused-applicant admittedly is 1.020 kgs. This is inclusive of polythene bag and polythene wrappers. The weight of the polythene bag and the polythene wrappers

has not been specified either in the seizure report or in the Chemical Analyser's Report. The exact weight of the polythene wrappers and the bag is material to the defence of the applicant. In an application made before the Special Judge by the applicant, a similar prayer was made for having the substance rechecked for weight and for purity of the substance. The said application was rejected by the Special Judge.

2. Since this is a border line case and the defence of the applicant is that the actual weight of the substance is within 1000 grams, it is necessary that the weight of the polythene bag and the polythene wrappers be separately determined.

3. In view thereof, the Special Judge is directed to submit the entire muddemal, i.e. the charas along with polythen bag and the wrappers to the Chemical Analyser for determining their correct weight to specify the weight of the polythene bag and the wrappers and the substance separately. After receipt of the report of the Chemical Analyser, liberty to the applicant to renew his application for bail before the Special Judge. This application stands disposed of.

A.S. AGUIAR, J.

ssm.